

REMARKS

Acceptance of the terminal disclaimer, filed on May 1, 2007, is noted with appreciation.

Claims 1, 2, 4-10 have been rejected as being anticipated by Gibson '789. This rejection is respectfully traversed with respect to these claims as amended herein.

Specifically, these claims now recited “a tip that is positioned at a distal end of the elongated body and that is configured to dissect tissue”, and “an outer expandable sheath disposed about the inner cannula and configured to expand in an outward direction responsive to the tip of the inner cannula slidably passing longitudinally through the sheath”.

In addition, the dependent claims are further limited by such recitations as “a proximal tapered end for facilitating passing of the tip through the sheath”, or “a first shell and a second shell adjacently aligned along longitudinal edges thereof, and a resilient connector attached between the first and second shells for resiliently urging the longitudinal edges of the shells together”, or “a retainer ... for retaining the shells against relative longitudinal movement during slidable passage of the tip on the inner cannula longitudinally through the outer expandable sheath”, or “the inner cannula and outer expandable sheath are separable to allow the outer

expandable sheath to remain in place at a surgical site as the inner cannula and the tip attached thereto are withdrawn”, or “the resilient connector resiliently urges a distal end of the first shell toward a distal end of the second shell to form an inner dimension at the distal end of the outer expandable sheath smaller than the outer dimension of the tip positioned distally of the distal end of the outer expandable sheath”.

Also, the dependent claims are further limited by such recitations as “a second resilient connector disposed to resiliently urge a proximal end of the first shell toward a proximal end of the second shell to form an inner dimension at the proximal end of the outer expandable sheath smaller than the outer dimension of the tip”, or “at least one of the shells of the outer expandable sheath is flexible to bend in response to passing of the tip through the outer expandable sheath”, or “the tip further comprises a distal tapered end for dissecting tissue, a proximal tapered end, and an enlarged intermediate portion having an outer dimension greater than an inner dimension of the sheath for exerting lateral expansion force against the outer expandable sheath responsive to slidable passage of the tip longitudinally through the outer expandable sheath”.

These aspects of the claimed invention enable the tip to both dissect tissue as configured distally of the outer expandable sheath and actuate the expansion of the outer sheath as it slidably passes through the outer sheath.

These aspects of the claimed invention are not disclosed or even suggested by Gibson '789 which merely discloses a fixed distal tip C₁ "against which the forward end of the tube A has bearing" (page 1, lines 44-49). In this reference, the tip that contacts tissue is fixed in distal position on the elongated body, or tube A, and an additional, inner plunger D₂ that does not contact tissue is required to expand tube A by its travel therein away from the fixed tip C₁.

This reference therefore does not disclose nor fairly suggest a tissue-dissecting tip that also slides within an outer sheath to actuate expansion thereof in any structural or operational manner resembling Applicant's claimed invention. It is therefore submitted that claims 1, 2, 4-10 as amended herein are not anticipated by, but instead are now patentably distinguishable over Gibson '789.

Rejected claim 3 has been cancelled without prejudice.

Favorable reconsideration of the claims as amended herein is solicited.

Respectfully submitted,
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